

RECEIVED

SEP 28 2011

FILED  
DEBBIE HARMON, CLERK

SEP 26 2011

DEPUTY

JESSE LASLOVICH

BRETT O'NEIL

Special Deputy Ravalli County Attorneys

Special Assistant Montana Attorneys General

Office of the Commissioner of Securities and Insurance

Montana State Auditor

840 Helena Ave

Helena, Montana 59601

(406) 444-2040

Attorneys for Plaintiff

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT,  
RAVALLI COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

JAMES "JEB" BRYANT,

Defendant

Cause No. DC 11- 116

Dept. D / 2

**MOTION FOR LEAVE TO FILE  
INFORMATION AND AFFIDAVIT  
IN SUPPORT**

STATE OF MONTANA

County of Ravalli

)  
) ss.  
)

BRETT O'NEIL, having been first duly sworn, deposes and says:

1. That he is a duly appointed, qualified, and acting Special Deputy County Attorney in and for the county of Ravalli, state of Montana.

2. That the Defendant has committed offenses in Ravalli County as hereinafter set forth and, based upon information developed through an investigation conducted by law enforcement officers and criminal justice investigators, the Court should grant leave to file the Information directly in District Court pursuant to Mont. Code Ann. § 46-11-201, charging the above-named Defendant with the offenses of: **COUNT I, THEFT**, by purposely or knowingly

1 obtaining by threat or deception control over G.S.'s property and using, concealing, or  
2 abandoning the property knowing that the use, concealment, or abandonment probably would  
3 deprive G.S. of his property, a FELONY, in violation of Mont. Code Ann. § 45-6-301(2)(c);  
4 **COUNT II, FAILURE TO REGISTER AS A SALESPERSON**, by representing an issuer in  
5 effecting or attempting to effect sales of securities without being registered, a FELONY, in  
6 violation of Mont. Code Ann. § 30-10-201(1); **COUNT III, FAILURE TO REGISTER A**  
7 **SECURITY**, by offering an unregistered security to G.S., a FELONY, in violation of Mont.  
8 Code Ann. § 30-10-202(1); **COUNT IV, FRAUDULENT PRACTICES**, by directly or  
9 indirectly making untrue statements of a material fact and/or omitting a material fact, which, in  
10 light of the circumstances under which they were made, were misleading, a FELONY, in  
11 violation of Mont. Code Ann. § 30-10-301(1)(b); **COUNT V, CONSPIRACY TO COMMIT**  
12 **THEFT**, by agreeing with another to purposely commit the offense of theft, and acting in  
13 furtherance thereof by purposely or knowingly obtaining by threat or deception control over  
14 G.S.'s property and using, concealing, or abandoning the property knowing that the use,  
15 concealment, or abandonment probably would deprive G.S. of his property, a FELONY, in  
16 violation of Mont. Code Ann. §§ 45-6-301(2)(c) and 45-4-102(1); **COUNT VI, CONSPIRACY**  
17 **TO COMMIT FRAUDULENT PRACTICES**, by agreeing with another to purposely commit the  
18 offense of securities fraud, and acting in furtherance thereof by directly or indirectly making  
19 untrue statements of a material fact and/or omitting a material fact, which, in light of the  
20 circumstances, were misleading, a FELONY, in violation of Mont. Code Ann. §§ 30-10-  
21 301(1)(b) and 45-4-102(1).

24 3. That law enforcement officers and criminal justice investigators have made a full  
25 and careful investigation of all the facts and circumstances surrounding the commission of said

1 offenses, so far as they are known or ascertainable, and Affiant believes it a proper case for the  
2 filing of an Information. For this reason and pursuant to Mont. Code Ann. § 46-11-201, Affiant  
3 respectfully moves the Court for leave to file said Information directly in District Court.

4 4. That the following information is submitted to establish probable cause for the  
5 filing of the foregoing charges:

6 a. On or about December 2007, G.S. received notice he would be inheriting  
7 a large sum of money. He discussed this windfall with Harris Himes, a pastor at Big Sky  
8 Christian Center. G.S. told Pastor Himes he wished to invest his money in a conservative, risk-  
9 free investment that provided income to support ministry work and would allow him to serve the  
10 Lord full time.

11 b. Pastor Himes told G.S. that he and another pastor, Defendant James "Jeb"  
12 Bryant, were partners in a company called Duratherm Building Systems (DBS). DBS allegedly  
13 manufactured structural insulated panels and would eventually provide a healthy return should  
14 G.S. choose to invest.

15 c. On or about March 2008, Defendant gave a PowerPoint presentation to  
16 G.S. about DBS. Pastor Himes was present at the meeting. Defendant and Pastor Himes told  
17 G.S. they, themselves, could not invest money "right now" because their money was tied up in a  
18 gold mine in New Mexico, but if they could get \$150,000, they could procure a glue machine,  
19 which was the last thing DBS needed to begin production of its insulated panels. At the  
20 meeting, Defendant and Pastor Himes told G.S. that in exchange for a \$150,000 investment,  
21 G.S. would receive a 20 percent minimum annual return for two years, or a 5 percent ownership  
22 with DBS with a 20 percent annual return and "perks" for a longer-term investment. These  
23 "perks" were to include the use of a beach house in Mexico and employment with DBS.  
24  
25



1 d. Based on the forgoing information, G.S. agreed to a \$150,000 investment  
2 which, according to Defendant's PowerPoint presentation and subsequent emails, would provide  
3 G.S. with \$36,000 per year return (roughly 24 percent on the investment). Defendant's  
4 subsequent emails to G.S. also included bank wiring instructions. Defendant further provided a  
5 third party's Letter of Intent stating it would purchase panels should certain timelines be met.  
6 This Letter of Intent was not on any company letterhead, nor did it refer to any specific business  
7 purpose for the panels.  
8

9 e. Pastor Himes encouraged G.S. to set up a corporation sole from which to  
10 wire the \$150,000. G.S. set up a corporation sole account named "Image of Truth" in May  
11 2008. Pastor Himes told G.S. a corporate sole was the best method for handling the financial  
12 side of ministry work.

13 f. On or about June 6, 2008, G.S. wired \$150,000 from the corporate sole  
14 account "Image of Truth" to Harris Bank in Chicago, Illinois, f/b/o Monarch Beach Properties,  
15 LLC (Monarch), per the instructions in Defendant's emails. G.S. was told that Monarch was a  
16 "type of parent corporation" for DBS. Monarch is solely owned by Defendant. The Monarch  
17 address on the wiring instructions contained in Defendant's email is located in an apartment  
18 complex in Rockville, Maryland, but the company is not registered with the Maryland Secretary  
19 of State. However, Harris Bank records list a P.O. Box in Hamilton, Montana, as Monarch's  
20 mailing address.  
21

22 g. On or about July 2008, at Pastor Himes' behest, and with encouragement  
23 from Defendant Bryant, G.S. traveled to Texas to meet with Defendant to assist with  
24 transportation across the Mexican border. Approximately one month after arriving in Texas,  
25 G.S. travelled with Defendant to Mexico to view the property where the factory was alleged to

1 be and to work as an electrician for DBS, one of the "perks" described in the initial offering.  
2 What he found when he arrived at the location of the alleged factory was an empty building.  
3 There were no workers, no machinery, no floor plan, and no sign that the building was occupied.  
4 This facility was not owned by DBS, Pastor Himes, or Defendant. Shortly after the "factory"  
5 tour, Defendant left G.S. alone in Mexico and G.S. was forced to return to Texas by himself.

6 h. DBS is an investment property per the subscription agreement provided to  
7 G.S. by Pastor Himes. However, G.S. never received a statement of ownership in DBS after he  
8 transferred the money to the Monarch account (the subscription agreement states DBS will issue  
9 certificates of ownership to its investors). Furthermore, G.S. was denied access to a financial  
10 accounting of assets (the subscription agreement states they will be viewable during reasonable  
11 business hours). Finally, G.S. never received a prospectus or even a receipt confirming his  
12 purchase (he was given the unsigned subscription agreement in lieu of both). His request to  
13 Pastor Himes and Defendant to be bought out from his share in the company has not been met,  
14 though Defendant Bryant and Pastor Himes have told G.S. they would help him to sell off his  
15 share in the business. Both Defendant and Pastor Himes stopped returning G.S.'s phone calls  
16 over one year ago.

17 i. Bank statements obtained by the Office of the Commissioner of Securities  
18 and Insurance, Montana State Auditor (CSI) confirm G.S. deposited \$150,000 into the Monarch  
19 account. This money ultimately went to various payees, including Defendant, Defendant's wife,  
20 and Pastor Himes; to credit card debt owned by Monarch Beach Properties(both Defendant and  
21 Pastor Himes were named on the credit cards); and to various other payees. G.S.'s investment  
22 did not go to DBS. G.S. never received a 20 percent minimum annual return for two years; he  
23 never received a 5 percent (or any type of) ownership with DBS with a 20 percent annual return;  
24  
25



1 he never received the "perks" which Pastor Himes and Defendant promised for his investment  
2 with DBS. The Defendant and Pastor Himes never returned G.S.'s money.

3 j. Neither Defendant nor Pastor Himes are registered, nor have they ever  
4 been registered, to sell securities in the state of Montana with the CSI. DBS was not a registered  
5 security with the CSI. Neither Defendant nor Pastor Himes disclosed this information to G.S.

6 WHEREFORE, the undersigned moves the Court for an Order granting leave to file an  
7 Information directly in District Court charging the above-named Defendant with the felony  
8 offenses of THEFT, by purposely or knowingly obtaining by threat or deception control over  
9 G.S.'s property and using, concealing, or abandoning the property knowing that the use,  
10 concealment, or abandonment probably would deprive G.S. of his property, a FELONY, in  
11 violation of Mont. Code Ann. § 45-6-301(2)(c); FAILURE TO REGISTER AS A  
12 SALESPERSON, by representing an issuer in effecting or attempting to effect sales of securities  
13 without being registered, a FELONY, in violation of Mont. Code Ann. § 30-10-201(1);  
14 FAILURE TO REGISTER A SECURITY, by offering an unregistered security to G.S., a  
15 FELONY, in violation of Mont. Code Ann. § 30-10-202(1); FRAUDULENT PRACTICES, by  
16 directly or indirectly making untrue statements of a material fact and/or omitting a material fact,  
17 which, in light of the circumstances under which they were made, were misleading, a FELONY,  
18 in violation of Mont. Code Ann. § 30-10-301(1)(b); CONSPIRACY TO COMMIT THEFT, by  
19 agreeing with another to purposely commit the offense of theft, and acting in furtherance thereof  
20 by purposely or knowingly obtaining by threat or deception control over G.S.'s property and  
21 using, concealing, or abandoning the property knowing that the use, concealment, or  
22 abandonment probably would deprive G.S. of his property, a FELONY, in violation of Mont.  
23 Code Ann. §§ 45-6-301(2)(c) and 45-4-102(1); CONSPIRACY TO COMMIT FRAUDULENT  
24  
25

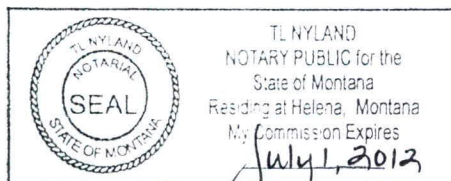
1 PRACTICES, by agreeing with another to purposely commit the offense of securities fraud, and  
2 acting in furtherance thereof by directly or indirectly making untrue statements of a material fact  
3 and/or omitting a material fact, which, in light of the circumstances, were misleading, a  
4 FELONY, in violation of Mont. Code Ann. §§ 30-10-301(1)(b) and 45-4-102(1), as more  
5 particularly set forth herein.

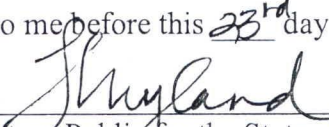
6 The State's investigation has shown that the Defendant is a flight risk. The Defendant is  
7 charged with Theft of \$150,000, has relatives in Mexico, and a criminal history which includes  
8 criminal impersonation and resisting arrest. Therefore, the State requests bail be set in the  
9 amount of the total damages, \$150,000.

10 DATED this 23<sup>rd</sup> day of September, 2011.

11  
12  
13   
14 **BRETT O'NEIL**  
15 Special Deputy Ravalli County Attorney

16 SUBSCRIBED AND SWORN to me before this 23<sup>rd</sup> day of September, 2011.



  
Notary Public for the State of Montana  
Residing at Helena MT  
My Commission Expires July 1, 2013